IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1043 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

H.V. Mehta for the appellants.

Mrs. Anjali Helekar for the respondents.

CORAM: S.B. DESHMUKH, J.
DATE : AUGUST 16, 2006.

P.C. :

1. Heard the learned counsel for both sides.

2. By consent, First Appeal, is taken up for final hearing, by passing order of admission thereof.

3. This appeal, impugnes the judgment and order passed by the Learned Judge, Employees Insurance Court, Nashik being Application (ESI)

No. 7 of 1996. From the judgment of the trial court, it appears that the Trial court had framed four issues and disposed off the application. Issue no.1 was inrespect of applicability of the provisions of the Employees State Insurance Act, 1948. The trial court referring the provisions of the ESI Act allowed the application and directed the corporation to withdraw the recovery proceedings initiated against the applicant for recovery of ESI contribution for the period commencing from April, 1992 to June, 1993.

4. From the judgment of the trial court, it appears that the gazette published by the State Government as well as the Central Government were not made available to the learned Judge. These two notifications, have been now filed in this appeal.

5. Without entering into the merits of the present case, in my view, order passed by the Trial court can be set aside and matter can be remanded back to the learned Judge, ESI for consideration of the proceedings afresh in the light of the government gazette's, issued by the State Government as well as the Central Government. The parties, are also, granted liberty to lead evidence, if they feel to do so.

6. Learned counsel for the appellant undertakes to file copies of the relevant government gazette's i.e. State Government as well as Central Government, in the Trial Court, within a period of four weeks from the date of appearance.

7. In the result, the judgment and

order passed by the trial court, is set aside. Matter is remanded back to the learned Judge, ESI, Nashik, for disposal according to law. The undertaking of the learned counsel for the appellant is recorded, regarding supplying the government gazette's i.e. State Government as well as Central Government within a period of four weeks from the date of the appearance in the trial court. Parties are directed to appear before the Trial court on 16.10.2006 at 11 a.m. The trial court, shall decide and dispose off the proceedings expeditiously in accordance with the provisions of law.

SD/-

(JUDGE)